

Zoning Board of Appeals of the Town of Arlington
Comprehensive Permit Regulations
Revised: April 14, 2020

1.0 Introduction

These Regulations, enacted pursuant to G.L. c.40B, s.21 prescribe the Arlington Zoning Board of Appeals requirements for the review of comprehensive permit applications ("applications" or "project"). These requirements list, supplement or clarify requirements set forth in M.G.L. c.40B §§20-23 (the Act) and the comprehensive permit regulations (760 CMR 56.00 et seq.). These regulations supplement various other rules, policies, and regulations governing land development in Arlington. Nothing in these Regulations shall be deemed to limit the right of the Board to require the Applicant to provide additional relevant information and/or documents or to limit the obligation of the Applicant to provide such additional information and/or documents.

The Town of Arlington encourages comprehensive permit applications for housing or mixed use developments that serve low-, moderate-, and middle-income households. Arlington is a densely developed community with limited open space. The Town encourages mixed use and small scale development adjacent to established commercial areas (predominantly the Massachusetts Avenue hubs at East Arlington, Arlington Center and Arlington Heights). The Town encourages developments that promote sustainability, protect neighborhood character, do not increase flood risks within the general neighborhood or otherwise adversely affect water based natural resources, do not overburden existing infrastructure (including, but not limited to, sewer, water and storm drainage systems), and minimize traffic congestion but provide enhancements to transit, bicycle and pedestrian access within the Town. The Town has adopted and the Massachusetts Department of Housing and Community Development approved a Housing Production Plan (November 7, 2016), Master Plan (February 4, 2015), and Open Space and Recreation Plan (September 23, 2015) that sets forth planning priorities for the Town and the Board intends on requiring compliance with the enumerated goals, strategies, and policies of these planning documents, as amended from time to time.

An applicant for a comprehensive permit project is encouraged to review carefully these plans. In addition, it is highly recommended that the Applicant meet with the Town Manager, Inspectional Services Department, Planning and Community Development Department, and other relevant Town staff members prior to submitting an application for a comprehensive permit.

Strict compliance with these Regulations may be waived if the Board finds that, but for the grant of the waiver, the proposed project would be rendered uneconomic and that granting the waiver is in the public interest and is not inconsistent with the intent and purpose of the law and these Regulations, and is otherwise in accordance with G.L. c.40B, s.20-23. Any request by an applicant for a waiver from these Regulations must be submitted to the Board in writing as part of the application. Such requests shall identify the specific sections of these Regulations from which waivers are sought and shall include a statement setting forth the reasons why the applicant believes a waiver should be granted.

2.0 Definitions

2.1 "Board" means the Zoning Board of Appeal, established by G.L. c. 40A, sec. 12, and Section 3.2 of the Town of Arlington Zoning Bylaws, and acting in its capacity to issue a comprehensive permit under the powers granted by the Act.

2.2 "Local Board" means any local board, department or official, including but not limited to the Board of Health; Arlington Redevelopment Board; Conservation Commission; Historical Commission; Town Manager; Fire Department, Police Department; Open Space Committee; Inspectional Services; the Select Board; Housing Plan Implementation Committee; Engineering; Natural Resources; Planning and Community Development, and all boards and commissions performing functions usually performed by locally-created boards and commissions.

2.3 "Local Preference" To the maximum extent allowed under G.L. c. 40B, comprehensive permit developments shall provide for local preference tenant or homeowner selection procedures. "Local preference" tenants or homeowners include current town residents or their immediate family members (such as adult children or elderly parents), municipal employees, employees of private and/or non-profit businesses located in town, and households with children enrolled in the Arlington Public Schools.

3.0 Application and Documentation

3.1 A complete application ("Application") and full documentation provided with the Application shall be submitted to the Board, as more fully described in these Regulations, before the Application will be deemed properly filed. The detail included in such documentation shall be commensurate with the scale of the project and the project's associated impacts to the built and natural environment. In addition, the Board may require additional information during the review process, as it deems reasonably appropriate.

3.2 Submittal Requirements. The Applicant for a comprehensive permit or for any substantial modification of a previously issued comprehensive permit shall submit the following with its application for a comprehensive permit:

3.2.1 Project Eligibility documentation: documents specified in 760 CMR 56.04 to show the status of the Applicant and the acceptability of the site, including:

3.2.2 evidence that the Applicant is a public agency, non-profit organization or a limited dividend organization;

3.2.3 evidence that the project shall be fundable by a subsidizing agency under a low and moderate income housing subsidy program. The Board may review this documentation to insure that the applicable subsidizing agency has performed the due diligence required under 760 CMR 56.04;

3.2.4 evidence that the Applicant shall control the site and the means of access thereto. This documentation must adequately demonstrate that the Applicant possesses the necessary control over the site access to develop the project as proposed in the Application; and all materials, including correspondence to and from, the subsidizing agency, upon which the Project Eligibility letter was issued.

3.2.5 Preliminary Site Development Plan(s) - preliminary site development plan(s) ("Site Plan") showing the locations and outlines of proposed buildings; the proposed locations, general dimensions and materials for streets, drives, parking area, walks and paved areas; and proposed landscaping improvements and open areas within the site including street trees, seating areas and landscape buffers. The Site Plan shall be signed and stamped by a registered professional engineer licensed in the Commonwealth of Massachusetts.

Said Plan shall include the following information:

3.2.5.1 existing wetland resource areas protected under the Massachusetts Wetlands Protection Act and Arlington Wetland Protection regulations, and including all land subject to flooding. Wetlands shall be delineated by a professional wetland scientist;

3.2.5.2 existing and proposed topography at two-foot intervals;

3.2.5.3 existing structures on adjacent properties within one hundred feet (100') of the nearest property line;

3.2.5.4 existing significant environmental features such as ledge outcrops, scenic views and large trees (i.e. greater than 24" dbh);

3.2.5.5 proposed stormwater management system;

3.2.5.6 proposed entrance(s) and egress(es) to the property;

3.2.5.7 proposed lighting and a photometric analysis;

3.2.5.8 Any proposed on site power generation facilities (such as a solar panel array) ; and

3.2.5.9 Any proposed wireless communication facilities.

3.2.6 Report on Existing Site Conditions - a report, together with a plan(s) if applicable, regarding existing site conditions and a summary of conditions in the surrounding areas, showing the location and nature of existing buildings, any wetlands or vernal pools, mature trees, existing street elevations, traffic patterns and character of open areas, if any, in the neighborhood. The zoning district or districts, if more than one (1) district is involved, shall also be shown on the plan. (If the abutting land is in another district or town, this shall also be shown.).

3.2.7 Preliminary Scaled Architectural Drawings - preliminary architectural scaled drawings (with a minimum scale of 1/8" = 1'-0") including typical floor plans, typical elevations and sections, and identifying construction type and exterior finish, signed and stamped by an architect. If one of the requested waivers is for relief from lot line setbacks or building height limitations, documentation shall include a street elevation showing the proposed new construction and existing buildings to at least 100 feet adjacent to the requested waiver area. The Board may additionally request a sun shading study after review of the streetscape elevation.

3.2.8 Tabulation of Proposed Buildings - a tabulation of proposed buildings by type, size (number of bedrooms, floor area), and ground coverage, and a summary showing the percentage of the tract to be occupied by buildings, parking and other paved vehicular areas, and by open areas.

3.2.9 Utility Plans — a utilities plan showing the proposed location and types of wastewater, water supply (including hydrants) and stormwater management and drainage features and facilities. Adequate supporting information shall be provided to demonstrate that all utilities and related infrastructure shall meet all applicable federal and state laws and regulations (including, but not limited to, Stormwater Management Guidelines promulgated by the Massachusetts Department of Environmental Protection, the Arlington Stormwater Mitigation Bylaw (Article 15), and Low Impact Development guideline or best management practices, whichever is more stringent), as well as related regulations and requirements. Additionally, the utility plan or a separate utility plan shall show the location and type of electric and gas utilities and telecommunication(s) facilities.

3.2.10 Recreation and Open Space Amenities - a detailed listing and site plan identifying the recreation and open space amenities and areas to be proposed and set aside within the proposed project's locus.

3.2.11 List of Requested Exemptions - a detailed list of requested exemptions to local bylaws, regulations, codes and requirements, which shall include an analysis of each requirement for which an exception is sought, the location on the plans for which the exception is sought (if applicable) and a complete explanation of why the exception is required to keep the project from becoming uneconomic. Only those exemptions specifically enumerated in the Application shall be considered.

3.2.12 Pro Forma - a complete financial pro forma, detailing the projected costs and revenues of the proposed project. The pro forma shall itemize all development costs and all profits and distributions, in accordance with applicable law, regulations and requirements, including, where applicable, the requirements and guidelines of the Commonwealth's Department of Housing and Community Development, MassHousing and the entity from which subsidy funding is sought. The Applicant shall fully disclose, in writing, to the Board all related party transactions. If the claimed land acquisition value is five percent (5%) or greater than the land's most recent assessed valuation as determined by the Town of Arlington, the application shall contain an appraisal of the property, prepared by an appraiser certified as a Massachusetts General Appraiser, with a valuation date no greater than six months prior to the application date.

3.2.13 Impact Analysis of the Natural and Built Environment (for applications for projects of twenty (20) or more dwelling units or if otherwise required by the Board of Appeals) - prepared by a qualified environmental scientist, professional wetland scientist (PWS), professional hydrologist, professional engineer, certified soil scientist, botanist, hydrogeologist and/or other scientific professional with demonstrated qualifications (e.g. education, training, or demonstrated experience) provided to the Board. The Impact Analysis shall assess the impact of the construction phase(s) of the development, and the completed development on the environment within the development and adjacent thereto and shall be used to assist the Board in determining whether any local or regional need for below market rate housing outweighs relevant impacts of the proposed project at the proposed location. Such analysis shall include, but shall not be limited to, an evaluation of pre-development conditions, construction phase impacts and post-development impacts on:

- surface and groundwater quantity and quality;

- groundwater recharge;
- open space and recreational areas and space;
- wildlife habitats and corridors; wetlands and bodies of water, including streams and rivers, both localized and general;
- species of special concern in Massachusetts; and
- historic and cultural resources.

Such analysis shall include proposed mitigation of any identified post-development impacts. Mitigation measures requiring continuing or periodic maintenance shall be identified and a proposed maintenance plan shall be included with the Impact Analysis.

3.2.14 Traffic Impact Report (for applications for projects of twenty (20) or more dwelling units or if otherwise required by the Board) - prepared by a registered professional engineer qualified in the field of traffic engineering, analyzing the proposed project's impact on the congestion, safety and overall convenience of the roadway system, including the roads providing access to and egress from the proposed project and all roads and areas otherwise impacted in any material way or manner by the proposed project, regardless of the level of additional traffic projected and regardless of whether or not the road is under the jurisdiction of the Town of Arlington or located in an adjacent municipality. The project's cumulative impacts on both vehicular and pedestrian travel shall be addressed in detail.

3.2.15 Statement of Impact on Municipal Facilities and Services - The Application shall provide a detailed analysis of the impact of the proposed project on municipal facilities and services and include an analysis of the costs imposed upon the Town as well as the anticipated tax and other revenue to be generated by the proposed project.

3.2.16 Statement of Demonstration of compliance with Arlington's Master Plan, Housing Production Plan, and Open Space and Recreation Plan - The Application shall provide a detailed analysis as to how the proposed development is consistent and in harmony with the goals of the Arlington Master Plan, Housing Production Plan, and the Open Space and Recreation Plan, as they may be revised from time to time.

3.2.17 Roster of Development team members and list of prior developments — (i) a list of all members of the development team, including all contractors and subcontractors to the extent known at the time of the Application; and (ii) a list of all prior development projects (regardless of whether residential or commercial, etc.) over the last ten (10) years.

3.2.18 List of abutters and the owners of land next adjoining the land of the abutters, notwithstanding that the abutting land or the next adjoining land is located in another city or town, certified by the Assessor's office, including addresses and owners' names of record.

3.2.19 Twenty (20) paper copies of said Application with attachments and exhibits shall be submitted to the Town Clerk upon filing together with two (2) digital archives each with separate PDF files of each of the required documents (to be distributed to the Board Members, the Board Recording Secretary, the Board's website, and to various Town departments). Up to ten (10)

additional print copies shall be provided to the Board upon request. Additionally, 11" x 17" copies of all scaleable and legible plans (with match-lines) shall be provided to the Board for copying purposes by the Board or the Town Clerk together with five (5) sets of such plans.

3.9.20 Payment of filing fee. The Application shall be accompanied by a filing fee, based on a flat fee and the number of housing units proposed:

- for limited dividend organizations where the total project contains 8 or more units: \$10,000 base fee plus \$200 per market rate unit proposed;
- for limited dividend organizations where the total project contains 7 or fewer units: \$5,000 base fee plus \$200 per market rate unit proposed
- for non-profit organizations and public agencies: \$1,000 base fee plus, if the total project contains more than 6 market rate units, \$100 per market rate unit proposed.

4.0 Review Fees

Pursuant to G.L. c.44, s.53G, the Board may employ outside consultants to provide technical assistance in various disciplines, including, but not limited to, civil engineering, traffic and transportation planning and engineering, wetlands and wildlife science, hydrology, hydrogeology, architectural and landscape design, financial and construction expertise, and stenographers.

A review fee will be imposed consistent with the following principles:

- The work is in connection with the applicant's project
- All written results and reports are made part of the Board's record
- The Board has complied with the Office of the Inspector General's report entitled "Procuring Outside Consultants With Fees From Applicants" dated July 2008 as this report may be amended from time to time.
- All fees assessed shall be reasonable in light of the:
 - Complexity of the proposed project
 - Complexity of the particular issues
 - Number of dwelling units proposed
 - Size and character of the site
 - Projected construction costs
 - Fees charged by similar consultants for similar work.

If the Board requests the applicant to pay the fees of a particular review consultant, the applicant shall provide the Board with the fees prior to the commencement of work by the consultant. In accordance with 760 CMR 56.05(5)(c) if the applicant does not provide the Board with the requested fees within 7 days of such request, the Board may deny the Comprehensive Permit.

5.0 Procedures

5.1 Within 7 days of receipt of a complete application, the Board shall notify local boards that the application has been received, which notice shall include the requested waivers. The Board may request that local boards and departments provide guidance to assist the Board in evaluating the application. All reports and correspondence shall become part of the public record.

5.2 The Board shall open a public hearing on a complete application within thirty days of its receipt thereof provided that said complete application includes the filing fees and all the information required by these regulations. Unless one or more of the items of information required by these Regulations is waived by the Board, an application will not normally be deemed complete if it does not contain all of the filing requirements established herein. The Board may in its discretion allow one or more of the items of information required by these Regulations to be submitted during the Board's public hearing on an application.

5.3 The Board shall request the appearance at the hearing of such representatives of Local boards or members of the general public as it considers necessary or helpful in reviewing the application. The applicant or its agent(s) shall appear under oath at each of the public hearing sessions held on the completed application and be available for questioning by the Board, the Board's agents and representatives, representatives from any Local boards and the general public, subject to the principles of due process and the procedural rules of the Board. The following is a general guideline to the order of proceeding: (a) administration of oaths, (b) applicant's presentation (which may be reasonably limited to a set amount of time by the Board), (c) questions or comments by local officials, and (d) comments by those in attendance (which may also be reasonably limited to a set amount of time by the Board).

5.4 In making its final decision, the Board shall take into consideration the recommendations of Local boards and the public and acknowledge within the Board's written decision, all written comments received from Local boards, officials or members of the general public.

5.5 Unless otherwise excused by the Board or its agents, the applicant shall cause to be present at each of the public hearing sessions held on the completed application any professional, expert or other witness who has participated in the drafting of the proposed Project plans or relevant elements of the Project or whose testimony would otherwise be relevant to the Board's deliberations and the public's understanding of the proposed Project. The Board will not accept the testimony of a lay witness (whether said witness is the applicant or the applicant's agent) with regard to technical matters (including legal, engineering, financial, scientific or construction) unless the lay witness demonstrates to the Board that he/she possesses sufficient skills and knowledge to so testify and then, and only then, the Board may permit such testimony but only in regard to the demonstrated area(s) of expertise of the witness. The Board shall not accept any testimony that is not presented under oath.

5.6 Pursuant to G.L. c.44, s.53G or otherwise, the Board may in its discretion collect appropriate fees from the applicant for the retaining of a notary public or other qualified stenographer and may in its discretion cause a stenographic record of the proceedings to be made. The applicant shall be entitled to a copy of the stenographic record and said record shall be referred to either directly or by reference in the Board's decision. In the absence of a stenographer, all proceedings related to the application shall be electronically recorded. Copies of all hearing records shall be filed with the Office of the Town Clerk within fourteen (14) day of the hearing. A similar copy shall be filed in the office of the ARB (Planning and Community Development). Notice shall be provided immediately to parties in interest as

designated in paragraph 3.2.18 above, the ARB, and to every person present at the hearing who requests that notice be sent to him or her and states the address to which such notice is to be sent.

5.7 Where the application materials required by these Regulations, by statute, by 760 CMR 56.00 et seq. and as required by the Board during the course of the public hearing in this matter have been received or their submission waived in writing by the Board, the Board shall close the public hearing within 180 days unless said time period is extended by written agreement of the Board and the applicant. In all other respects, the public hearing is deemed terminated, in the Board's sole judgment, when all public testimony has been received and all information requested by the Board and required by these Regulations, by statute and by 760 CMR 56.00 et seq. has been received to the satisfaction of the Board.

6.0 Review Criteria

6.1 Site Selection. Arlington is a densely developed Town with limited open space. The Town encourages comprehensive permits that promote appropriately designed conversion and reuse of existing structures to affordable multi-family housing, or otherwise develops housing on currently developed sites. Arlington encourages mixed use developments on or adjacent to the Massachusetts Avenue commercial corridor or other established commercial corridors in the Town.

6.2 Limited environmental impact.

Development shall minimize to the extent possible:

- Depletion and contamination of ground waters;
- Alteration or relocation of waterways and drainage patterns;
- Any use of groundwater for irrigation of landscaping;
- Alteration of existing, natural grades, and overall volume of cut and fill;
- Area over which existing vegetation will be disturbed, especially if within 200 feet of a river, pond or stream or wetland resource as defined by the Arlington Regulations for Wetlands Protection, or having a slope of more than 15%;
- Removal of mature trees;
- Soil loss or instability during and after construction;
- Alteration or disturbance of land within any flood plain or wetlands area;
- Adverse impacts to municipal facilities
- Blockage of trails or potential trails;
- Disturbance of important wildlife habitats or corridors, outstanding botanical features or scenic or historic environment;
- Visual prominence of man-made elements which are not necessary for safety or orientation including visibility of building sites from existing streets and existing protected open space;
- Blockage of vistas through new development;
- Traffic congestion and reliance on private transportation; and

- Number of driveways exiting onto existing streets.

Development shall maximize to the extent possible:

- Preservation of uncontaminated ground and surface waters;
- Visual prominence of natural features of the landscape;
- Legal and physical protection of views from public ways and existing protected open space;
- Connections via publicly accessed trails to and between protected open space and other trails;
- Buffers for and connections among existing protected open spaces;
- Wildlife corridors;
- Access to public transportation;
- Creation of, and access to, pedestrian walkways and bicycle paths;
- Adherence to Arlington's Master Plan;
- Adherence to Arlington's Housing Production Plan;
- Adherence to Arlington's adopted Open Space and Recreation Plan;
- Protection and preservation of existing trees;
- Stormwater Mitigation;
- Compensatory Flood Storage;

6.3 Developments shall demonstrate use of environmentally sustainable planning and engineering approaches for natural resources management to improve water quality, control flooding, maintain ecological diversity, promote adaptation to climate changes and ensure that Arlington's residential areas, commercial centers and infrastructure are developed in harmony with natural resource conservation.

6.4 Site and building planning should be compatible with the existing neighborhood character and existing development pattern.

6.5 Compatible architectural features include scale, materials, roof style and pitch, porches or balconies, and exterior detailing. Rooflines and setbacks may mitigate height differences with neighboring structures.

6.6 Site planning should maintain existing significant trees as reasonably feasible and replace trees to be removed with trees of a sufficient diameter to provide shade and infill within a reasonable period after planting in keeping with Title V, Article 16 of the Arlington Town Bylaws, Tree Protection and Preservation. All landscaped areas should be continuously maintained and provided adequate water. The Board may require that the Applicant submit a landscape maintenance plan providing for periodic reviews by Town Departments or Boards.

6.7 All paved areas should provide for proper stormwater control with a focus on low impact design techniques. If pervious pavers are proposed, the landscape maintenance plan must provide for control of sediment at areas of pervious pavement.

6.8 All exposed storage areas shall be screened from abutting properties. Trash dumpsters shall be fully screened on three sides with solid walls to block visual access from street level and with a solid front gate.

6.9 Traffic impacts. Developments shall minimize increase of automobile traffic and enhance access to public transit and enhance both bicycle and pedestrian access to public ways.

7.0 Decision

The Board shall render a decision, based on a majority vote of the Board, within forty (40) days after termination of the public hearing, unless such time period is extended by written agreement of the Board and the applicant.

7.1 The Board may dispose of the application in the following manner:

7.1.1 approve a comprehensive permit on the terms and conditions set forth in the application; or

7.1.2 deny a comprehensive permit as not consistent with local needs pursuant to G.L. c.40B, s.20-23 or due to the failure of the applicant to conform to these Regulations or those found at 760 CMR 56.00 et seq.; or

7.1.3 approve a comprehensive permit with conditions consistent with these Regulations provided that the approval does not render the construction or operation of such housing uneconomic, as uneconomic is defined by the Board with the assistance of the Board's advisors and consultants and subject to the definition of "uneconomic" as found in M.G.L. c.40B, s.20.

7.2 In rendering a decision to approve a comprehensive permit or approve a comprehensive permit with conditions, the Board shall:

7.2.1 never require nor permit the use, via easement, license or any other means, of private or public property, not under the control or authority of the applicant, unless the applicant demonstrates the legal right to use, via easement, license or otherwise, said private or public property;

7.2.2 always require, as a condition of comprehensive permit approval, that prior to the commencement of any construction activities or any site clearing, the comprehensive permit, with a true and attested copy of these Regulations affixed, be recorded at the South Middlesex County Registry of Deeds.

7.2.3 always require, as a condition precedent to recording the comprehensive permit, the execution of a regulatory agreement limiting the profit of the proposed project to that set by the subsidizing agency, unless the Board chooses to establish stricter profit limitations, subject to applicable law;

7.2.4 always require, as a condition precedent to recording the comprehensive permit, the execution of a deed rider ensuring that the below market rate units remain affordable in perpetuity, or the longest period allowed by law;

7.2.5 always require, as a condition precedent to recording the comprehensive permit, the execution of a monitoring services agreement ensuring that the applicant has engaged the services of a competent professional or agency to monitor, in perpetuity, the transactions of the below market rate units in a for sale Project and the renting of the below market rate units in a rental Project;

7.2.6 always require the following condition: "Prior to the commencement of any construction activities or any site clearing, the Applicant shall submit to the Board a final comprehensive permit site plan and the final engineered plans and calculations associated with the construction of the roadways and related infrastructure, stormwater management utilities, the approved wastewater disposal plans, and the approved water supply plans for technical review by the Board to ensure that it is consistent with and in conformity with this Decision, which upon such finding shall be approved and endorsed by the Board (the 'Approved Plans')." The Board shall render a decision under this Condition within 45 days of the Applicant's complete submittal of these plans and calculations;

7.2.7 always require the following condition to be included in for "for sale" comprehensive permit Projects: "No more than three certificates of occupancy shall be issued by the Building Commissioner for units designated for sale at fair market prices until at least one affordable housing unit has been sold. Affordable housing units shall be constructed and sold coincident with the development of market rate units. Prior to the issuance of the certificate of occupancy for the last-to-be-sold market rate dwelling unit in any phase of the Project, the Applicant shall complete construction, obtain certificates of occupancy for, and sell all of the affordable dwelling units in that phase."

7.2.8 always require the following condition: "No structure authorized for construction by this comprehensive permit shall be substantially altered, reconstructed, extended, or changed unless authorized by the Board under a special permit pursuant to Arlington Zoning Bylaws, as may be amended, and by amendment to this comprehensive permit."

7.2.9 issue to the land owner a notice, certified by the chair or clerk, containing the name and address of the land owner, identifying the land affected, and stating that a limited or conditional variance or special permit has been granted which is set forth in the decision of the Board on file in the office of the Town Clerk.

8.0 Appeals

8.1 If the Board approves the comprehensive permit, any person aggrieved may appeal within the time period and to the Superior Court or Land Court as provided in G.L. c. 40A, § 17 and G.L. c.40B, § 21.

8.2 If the Board denies the comprehensive permit or approves the permit with conditions or requirements considered by the applicant to render the Project uneconomic, the applicant may appeal to the Housing Appeals Committee as provided in G.L. c. 40B, § 22.

8.3 Where an appeal is taken pursuant to both Section 8.1 and Section 8.2, appeals brought pursuant to Section 8.1 shall be stayed pending final disposition of the appeal brought pursuant to Section 8.2.

8.4 Where the Housing Appeals Committee, pursuant to an appeal brought under Section 8.2 above, disturbs a decision of the Board and orders the Board to issue a revised decision, said revised decision or failure of the Board to issue the same shall constitute a decision which may be appealed by any person aggrieved pursuant to Section 8.1, above.

9.0 Amendments to Approved Plans

9.1 If after the issuance of a comprehensive permit an applicant seeks to make changes to an approved project, it shall promptly notify the Board in writing, describing such change. Within 20 days of receipt of written notification, the Board shall determine and notify the applicant whether it deems the change substantial or insubstantial.

9.2 If the Board determines the change is insubstantial, the comprehensive permit shall be deemed to incorporate the change.

9.3 If the Board determines the change is substantial, it shall hold a public hearing within 30 days of its determination and issue a decision within 40 days of the close of the hearing. Only the changes in the proposal or aspects of the proposal affected thereby shall be at issue in the hearing, however, nothing shall prevent the Board from ensuring that all prior conditions have been adhered to and fulfilled by the current applicant or its predecessor(s) in interest or title.

End of Regulations